



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/739,242	12/19/2000	Jon C. Taenzer	022577-404	4466

7590

08/15/2002

David G. Beck
McCUTCHEN, DOYLE, BROWN & ENERSEN, LLP
Three Embarcadero Center
San Francisco, CA 94111

EXAMINER

BARNIE, REXFORD N

ART UNIT

PAPER NUMBER

2643

DATE MAILED: 08/15/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/739,242

Applicant(s)
TAENZER

Examiner
Rexford Barnie

Art Unit
2643



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2 6) ☐ Other:

REXFORD N. BARNIE
PATENT EXAMINER

RBarnie
08/10/02

Art Unit: 2643

DETAILED ACTION

Claim Rejections - 35 U.S.C. § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-8 and 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Taenzer (US Pat# 5,751,820).

Regarding claim 1, Taenzer teaches a hearing aid which can wirelessly communicate with a remote processor in (see figs. 1A). According to Taenzer, the hearing aid's remote processor can communicate with a cellular communication system such that an incoming cellular call can automatically be connected via a wake-up control mode in (see column 9 line 66-column 10 line 22, column 3 lines 17-22). Furthermore, Taenzer teaches being able to switch rapidly from a non-receive mode to a receive mode to allow a transceiver of the hearing aid to sample and transmit audio signals in (see column 5 lines 50-column 6 line 7). The hearing aid would perform in a first signal path namely "a first mode" equivalent to a hearing aid mode according to (see column 6 lines 8-22).

Regarding claim 2, Taenzer teaches a hearing aid mode wherein the hearing apparatus can function as a regular hearing aid with enhanced signal processing.

Art Unit: 2643

Regarding claim 3, Taenzer teaches the possibility of the hearing system communicating with a wireless terminal including a cellular system in conjunction with a mobile/cellular phone or a computer system.

Regarding claim 4, Taenzer teaches activating a second path in response to receiving an outside call. A ringing signal is generated from a central or switching office as means of alerting a called party and to make a connection, if the called party decides to go off-hook.

Regarding claim 5, Taenzer implies from his teaching in (column 9 line 66-column 10 line 22) that the hearing aid system could be in a hearing aid mode in a form of a sleep state thus conserving power supply if an incoming call signal is not detected. Furthermore, it could be inferred that the hearing aid would be in a sleep state and activated automatically in response to a hearing activation mode in response to detection of audio signals.

Regarding claim 6, Taenzer teaches a two-way communication mode in (see column 3 lines 18-22).

Regarding claim 7, Taenzer seems to imply that one can activate the hearing aid in the sleep/active mode either manually, by voice recognition or automatically in (see sleep/awake node, column 10 lines 10-11).

Regarding claim 8, Taenzer teaches in (see column 10 lines 1-22) that power can be conserved by placing the hearing aid in a sleeping mode.

Regarding claims 13-15, Taenzer teaches a switch which can be activated manually, automatically or by voice recognition to a sleep/wake mode in (see column 10).

Art Unit: 2643

Claim Rejections - 35 U.S.C. § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taenzer (US Pat# 5,751,820) in view of Topholm (US Pat# 5,202,927) or Kerns (US Pat# 6,144,748) or Anderson (US Pat# 5,721,783, cited by applicant).

Regarding claims 9-12, Taenzer teaches processing of audio signals including personal communication and that of a cellular system using digital signal processing but fails to teach a memory for storing parameters for controlling a hearing aid fitted specifically for an individual, even though arguably there could be one to store parameters associated with the user in order to overcome factors such as background noise and so forth..

It's notoriously well known in the art to store hearing aid parameters in a memory for the purpose of signal processing of audio signals for an individual.

Topholm teaches a hearing aid memory means which can store hearing aid signal processing parameters in memories (5) and (6). It's could be a unitary memory as known in the art.

Kerns teaches a hearing aid with a memory (215), digital processing means and so forth for controlling the operation (see entire disclosure).

Art Unit: 2643

Anderson teaches a hearing aid with a processor with a memory structure which can be used in controlling telephone functionalities as well normal hearing aid processing in (see 948 of fig. 9, column 23 lines 26-35).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate either one of the secondary references into that of Taenzer thus making it possible to control hearing aid based on stored signal processing parameters suitable for a hearing aid user.

Conclusion

5. Any inquiry concerning this communication or earlier communication from the examiner should be directed to REXFORD BARNIE whose telephone number is (703) 306-2744. The examiner can normally be reached on Monday through Friday from 8:30 to 6:00p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz, can be reached on (703) 305-4708.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to (703) 872-9314 and labeled accordingly (Please label

"PROPOSED/INFORMAL" or "FORMAL").

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (703) 306-0377.

REXFORD N. BARNIE
PATENT EXAMINER

Rexford Barnie
Patent Examiner
RB 08/10/02.

R Barnie